

Mail Stop: APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



112 AF
Docket No.: 331.1082
Date: January 13, 2009

In re application of: **Claudio Miguel SUAREZ**
Serial No.: 10/517,331
Filed: December 9, 2004
For: **TRANSFER LAYER OF LIQUID FLUIDS AND AN ABSORBENT ARTICLE
INCORPORATING THE SAME**

Sir:

Transmitted herewith is a **Appellants' Reply Brief Under 37 C.F.R. §41.41 (4 pages)** in the above-identified application.

- ☒ Also transmitted herewith are:
- ☐ Petition for extension under 37 C.F.R. 1.136
 - ☒ Return receipt postcard
 - ☐ Other:
- ☐ Check(s) in the amount of \$ _____ is/are attached to cover:
- ☐ Filing fee for additional claims under 37 C.F.R. 1.16
 - ☐ Petition fee for extension under 37 C.F.R. 1.136
 - ☐ Fee set forth in 37 C.F.R. §1.17(p)
 - ☐ Other:
- ☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
- ☐ Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
 - ☒ Any patent application processing fees under 37 C.F.R. 1.17.
 - ☒ Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 C.F.R. 1.136.


William C. Gehris, Reg. No. 38,561

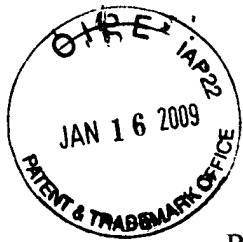
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
Tel: (212) 736-1940
Fax: (212) 736-2427

I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "First Class Mail" with sufficient postage in an envelope addressed to Mail Stop: APPEAL BRIEF - PATENTS, "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on January 13, 2009.

DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: 

Alexander M. White



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re: Applicant: Claudio Miguel SUAREZ, et al.
 Application No.: 10/517,331
 Filing Date: December 9, 2004
 For: **TRANSFER LAYER OF LIQUID FLUIDS AND AN
 ABSORBENT ARTICLE INCORPORATING THE
 SAME**
 Confirmation No.: 2921
 Examiner: Michael G. BOGART
 Art Unit: 3761
 Attorney Docket: 331.1082
 Customer No.: 23280

Mail Stop: APPEAL BRIEF – PATENTS

January 13, 2009

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. §41.41

Sir:

Appellants submit this Reply Brief for consideration of the Board of Patent Appeals and Interferences (the "Board") in response to the Examiner's Answer dated November 13, 2008 and in support of their appeal of the Final Office Action that was issued on September 10, 2007. Appellants respectfully reassert each of the arguments asserted in Appellants' Brief dated May 5, 2008 and provides herein only additional comments in response to the arguments raised in the Examiner' Answer.

No fee is believed required. If any fee is required at this time, the Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

ARGUMENTS

Claims 11 and 24

In the Examiner's Answer, the Examiner asserts that the applicant's arguments are not persuasive because:

applicants' specification does not specifically define "predominantly hydrophobic" or "predominantly hydrophilic". Nor does applicants' specification provide specific materials for the hydrophobic or hydrophilic fibrous materials. The terms "hydrophobic" and "hydrophilic" are qualitative or relative terms concerning the relative degree of moisture absorption or attraction of a material.

See Examiner's Answer, page 7, first full paragraph, lines 4-9.

Applicants note that the present specification discusses hydrophobicity of the top layer in terms of a Basket Test (ASTM D-1117-5.2) in relation to the efficient conduction of liquids through a nonwoven. See present specification, page 6, first full paragraph. Thus, one of skill in the art would understand for example, the term "predominantly hydrophobic" as used with respect to the present invention.

Moreover, Roxendal discloses that hydrophilic fibres can be used in the central zone 5b and hydrophobic fibres in the edge portions 5a and c, in order to create side barriers against liquid spreading out towards the edges. (See Roxendal et al., page 11, lines 30 to 33). However, Roxendal does not show or teach that the transfer layer (5d) comprises a top layer of predominantly hydrophobic fibrous material. In fact, the top layer of Roxendal is hydrophilic as the layer 5d is attempting to pass liquid in this direction. Roxendal merely discloses that a hydrophilicity gradient may be created in the z-direction of the layer 5 by means of arranging fibres with increasing hydrophilicity from the upper 5d towards the lower layer 5e. Roxendal does not show or teach at all that the transfer layer (5d) comprises a top layer of predominantly hydrophobic fibrous material, (See Roxendal et al., page 12, lines 14 to 16), and a fair reading of the disclosure indicates that 5d is not hydrophobic like the side zones 5a, 5c.

Claim 12

With respect to claim 12, the Examiner's Answer asserts the applicant's arguments are not persuasive because: "as shown in figure 5, supra, liquid flows downward in a z-direction

through the and/or down the peaks to the channels.” See Examiner’s Answer, page 8, lines 1-2.

Figure 5 of Roxendal shows “a portion of a layer 5 of fibre tow, which has been bonded in a simple bonding pattern 10 with transverse, short lines.” See Roxendal, page 8, lines 1-2.

Roxendal discloses that fibers of a higher thickness can be used in an upper layer 5d and thinner fibers in the lower layer 5e, whereby a pore size gradient is created in the z-direction of the layer which facilitates the liquid transport in the z-direction. (See Roxendal et al., page 11, lines 18 to 20). Roxendal also discloses that hydrophilic fibres can be used in the central zone 5b and hydrophobic fibres in the edge portions 5a and c, in order to create side barriers against liquid spreading out towards the edges. (See Roxendal et al., page 11, lines 30 to 33). However, Roxendal does not show or teach “wherein the plurality of peaks define zones of superficial liquid distribution to the channels” as recited in claim 12 of the present invention.

Claims 15-17

The Examiner’s Answer asserts that “it is noted that the features upon which applicant relies (i.e., the segments and points or sectors of union in Roxendal’s transfer layer; or the fiber density in the peaks relative to the joining regions, do not contribute to improving the capacity of absorption and transfer of liquids which are retained in the absorbent core) are not recited in the rejected claim(s). Applicants respectfully submit that claims 15 to 17 are directly or indirectly dependent on claim 11 which recites “the transfer layer comprising: a top layer of predominantly hydrophobic fibrous material; a bottom layer of predominantly hydrophilic material superimposed on the top layer and joined to the top layer at a plurality of joining regions of the top and bottom layers so as to form a plurality of channels at the joining regions, a plurality of peaks being formed of the top and bottom layers between adjacent ones of the plurality of channels, wherein a transversal thickness of the top and bottom layers is lower at the joining regions than at the peaks.” Therefore, Applicant’s respectfully submit that features discussed in Applicant’s Appeal Brief are in fact recited in rejected claims 15 to 17.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this Reply Brief is respectfully requested.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 
William C. Gehris, Reg. No. 38,156

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue
New York, New York 10018
(212) 736-1940